

Subject: Fiscal Year 2023 Enrollment Limitations

Dear Provider:

This notice contains information on rate enhancement enrollment limitations for the following programs:

- Community Living Assistance and Support Services (CLASS)
- Day Activity and Health Services (DAHS)
- Deaf-blind with Multiple Disabilities (DBMD)
- Home and Community-based Services (HCS)
- Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Condition (ICF/IID)
- Nursing Facilities (NF)
- Primary Home Care (PHC)
- Residential Care (RC)

You are receiving this information because your contract's enhancement level for fiscal year 2023 (effective September 1, 2022 to August 31, 2023) will be limited to the level it has achieved on its most recently audited 2020 Cost Report, 2020 Accountability Report, or 2021 Accountability Report functioning as an Attendant or Staffing Compensation Report.

As per Title 1 of the Texas Administrative Code (TAC) Section 355.112 or 1 TAC Section 355.308, "a provider or facility will not be enrolled in the attendant compensation rate enhancement or enhanced direct care staff rate at a level higher than the level it achieved on its most recently available, audited Attendant or Staffing Compensation Report or Cost Report functioning as an Attendant or Staffing Compensation Report".

### **ENROLLMENT LIMITATION**

A list of all contracts receiving an Enrollment Limitation notice is posted on the Health and Human Services (HHSC) Provider Finance Department (PFD) website using the following instructions:

<https://pfd.hhs.texas.gov/long-term-services-supports>

1. Select the applicable program from the list of services in the left margin.
2. Scroll to the bottom and click "View 2023 Rate Enhancement - Attendant Compensation Information." This page contains all of the important documentation related to enrollment.
3. Scroll down to the "View Contracts Receiving Enrollment Limitation Letters".
4. Lastly, click on the program list to find your contract.

**For PHC providers, it is important to review the Enrollment Limitation List to determine whether the limitation applies to your Priority level, Nonpriority level, or both.**

**For HCS and Texas Home Living providers, it is important to review the Enrollment Limitation List to determine whether the limitation applies to your Day Habilitation Services, Non-Day Habilitation Services, and/or Residential Services level.**

**For ICF/IID providers, it is important to review the Enrollment Limitation List to determine whether the limitation applies to your Non-Day Habilitation, Day Habilitation, and/or Residential Services level.**

As per 1 TAC Section 355.112 or 1 TAC Section 355.308, if determined that your contract will not be able to meet its attendant or staffing compensation requirements at any point, you may request a reduction in your participation level and associated rate add-on and requirements. These requests will be effective on the first day of the month following approval of the request.

## **REQUESTS FOR REVISION**

As per 1 TAC Section 355.112 for Community Care providers or 1 TAC Section 355.308 for Nursing Facilities, "a provider or facility may request a revision of its enrollment limitation if its most recently available, audited Attendant or Staffing Compensation Report, or Cost Report functioning as its Attendant or Staffing Compensation Report, does not represent its current attendant or staffing levels".

Submit the fiscal year 2023 Request for Revision Report (RFR) to request Revisions. These reports and associated instructions are available on the HHSC PFD website linked above. Use the following instructions to access them:

1. Open the website,
2. Click on the link to your program,
3. Scroll down to the heading "Rate Enhancement – Attendant Compensation,"
4. Click on "View 2023 Rate Enhancement – Attendant Compensation information," and
5. Under the heading "2023 Enrollment Limitations Information" open the "Request for Revision Report and Instructions."

The following requirements apply to all RFRs. Submissions that do not meet these requirements will not be considered, and the enrollment limitation will apply. Only contracts receiving an enrollment limitation may submit an RFR.

1. HHSC PFD must receive a properly completed fiscal year 2023 RFR no later than August 1, 2022. Providers must properly complete the RFR online. Submissions by mail, hand delivery, or fax will not be accepted. Instructions for completing the RFR are available on the website above.

For this SFY 2023, enrollment will be open until Aug 1, 2022 because TAC Section 355.112 and 355.208 states if the last day of open enrollment is on a weekend day, state holiday, or national holiday, the

next business day will be considered the last day requests will be accepted.

2. The RFR Report must be completed by an individual legally responsible for the conduct of the contract or legally authorized to bind the contract. Legally responsible individuals include the sole proprietor, a partner, a corporate officer, an association officer, a government official, a limited liability company member, a person authorized by the applicable Texas Health and Human Services (HHS) Form 2031 for the interested party on file at the time of the request, or a legal representative for the interested party.
3. The RFR must show that your contract met a higher attendant or staffing compensation level than the enrollment limitation for the period beginning September 1, 2021 and ending April 30, 2022. In such cases, your contract's enrollment limitation will be established at the level supported by the RFR results.
4. If the results of the RFR indicate a lower level of attendant or staffing compensation than the enrollment limitation, then the limitation will apply.

### **INDIVIDUAL VERSUS GROUP PARTICIPATION**

Compliance with the staffing or spending requirements for an entity, commonly owned corporation, or combined entity controlling more than one participating contract can be determined in the aggregate for all participating contracts controlled by the entity, commonly owned corporations, or combined entity. One RFR may be submitted for the entire group or each individual contract. The RFR analysis results for a group will apply to all contracts included on the RFR.